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COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

CASE NO. INS990122

RED SEA GROUP, LTD.,

Defendant

**Hearing Examiner's Report**

**July 8, 1999**

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HEARING EXAMINER: Following is my Hearing Examiner's Report in the case styled Commonwealth of Virginia, at the relation of the State Corporation Commission versus Red Sea Group, Ltd., Defendant.

May 18th, 1999, the Commission issued a rule to show cause alleging in effect that based on an investigation and subsequent allegations that Red Sea Group, Ltd., a surety insurance company, domiciled in the Turks and Caicos Islands was not licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia.

And then on at least four separate occasions Defendant violated Section 38.2-1024 of the Code of Virginia by transacting the business of surety insurance in Virginia without first obtaining insurance company license from the Commission.

The rule alleged that on or about September 29th, 1994, Defendant transacted the business of insurance in Virginia by issuing a performance bond naming Home Builders, Inc., trading as HB, Inc. of 3634 South Plaza Trail,

Virginia Beach, Virginia, as principal and Marty K. Desai of 100 Brady Drive, Biloxi, Mississippi as obligee and Red Sea as surety.

The rule further alleged that on or about September 29, 1994, Defendant transacted the business of insurance in Virginia by issuing a payment bond naming Home Builders, Inc. as principal, Marty Desai as obligee and Red Sea as surety.

The rule further alleges that on or about December 21st, 1994, Defendant transacted the business of insurance in Virginia by issuing a performance bond naming Home Builders, Inc. as principal, Lodging Investments, Inc. as obligee and Red Sea as surety.

Finally, the rule alleged that on or about December 21st, 1994, Defendant transacted the business of insurance in Virginia by issuing a payment bond, naming Home Builders, Inc. as principal, Lodging Investments, Inc. as obligee and Red Sea as surety.

The rule required the Defendant appear in the Commission's courtroom at 10:00 a.m. on July 8th, 1999, and show cause, if any, why the Commission should not, in addition to a penalty

under Section 38.2-218 of the Code of Virginia, permanently enjoin Defendant from transacting the business of insurance in the Commonwealth of Virginia, pursuant to Sections 12.1-13 and 38.2-220 of the Code of Virginia, for Defendant's violations of Section 38.2-1024 of the Code of Virginia.

The rule further required the Defendant to file on or before June 11th, 1999, an original and seven copies of an answer or other responsive pleading in which it expressly admitted or denied each of the allegations as set forth in the rule to show cause.

Defendant failed to file any answer or other responsive pleading by the date set forth in the Commission's rule.

The Commission rule further provided that the Defendant shall be in default if it fails to file timely either an answer or other responsive pleading or if it files such pleading and fails to make an appearance at the hearing, that if it is in default, it shall waive all objections to the admissibility of evidence and may have entered against it a judgment by default imposing some of or all of the aforesaid

sanctions.

The Defendant failed to appear at the hearing on July 8th, 1999. Therefore, Defendant is in default, and judgment may be entered against it.

The Staff on July 1st, 1999, filed with the Clerk of the Commission a motion for summary judgment and permanent injunction in this proceeding. The applicable law provides, specifically Section 38.2-1024, and I quote, "No insurer unless authorized pursuant to Chapter 48 of this title shall transact the business of insurance in this Commonwealth until it has obtained a license from the Commission."

Section 38.2-100 of the Code of Virginia further defines "insurer" as any insurance company. It defines an "insurance company" as any company engaged in the business of making contracts of insurance. It further defines "insurance transaction and insurance business and the business of insurance" to include solicitation, negotiations preliminary to execution, execution of an insurance contract and the transactions of matters subsequent to the execution of the contract and arising out of

it.

Based on the evidence adduced in today's hearing, I find that the Staff has met its burden of proving by clear and convincing evidence the allegations set forth in the rule to show cause.

Accordingly, I'm going to grant the Staff's motion for summary judgment and permanent injunction. There are not disputed questions of fact in this proceeding, and summary judgment is appropriate in such cases.

Therefore, I recommend that the Commission enter an order penalizing the Defendant the sum of \$5,000 for each violation of the Code of Virginia, for a total penalty of \$20,000.

Secondly, the order permanently enjoin Defendant from transacting the business of insurance in the Commonwealth of Virginia; third, that the order passes the papers herein to the file for ended causes.

Mr. DeHaas, is there anything further to come before the Commission today?

MR. DEHAAS: No. Thank you, Your Honor.

HEARING EXAMINER: All right, sir.

There being nothing further, that  
completes my Hearing Examiner's Report.

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Michael D. Thomas,  
Hearing Examiner

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HEARING EXAMINER: I'm required to advise the parties that any comments, pursuant to Section 12.1-31 of the Code of Virginia and Commission Rule 5:16E that my Hearing Examiner's Report must be filed with the Clerk of the Commission in writing in an original and 15 copies within 15 days from the date that the report is filed with the Clerk of the Commission.

The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

Any party filing such comments shall attach a certificate to the foot of such documents certifying that copies have been mailed or delivered to all counsel of record and any such party not represented by counsel.

There being nothing further to come before the Commission today, the Commission stands in adjournment.

Thank you very much.

NOTE: The hearing is adjourned at 11:00 a.m.